

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

JORGE RIOS-GARCIA,

Defendant.

Case No. 93-20017

MEMORANDUM AND ORDER

This matter is before the court on defendant's "Motion to Withdraw/Vacate Guilty Plea" (Doc. 48). In 1993, defendant pleaded guilty on charges of cocaine distribution, and he was sentenced to fifty-two months' imprisonment. Defendant did not file a motion under 28 U.S.C. § 2255 regarding that guilty plea. Defendant was released from prison at some point. Then, in 2002, defendant was indicted on new charges, pleaded guilty, and was sentenced to 240 months' imprisonment. *See United States v. Rios-Garcia*, 200 F. App'x 793, 794 (10th Cir. 2006) (discussing defendant's case history, tangentially discussing his 1993 guilty plea, and ultimately dismissing his § 2255 appeal). Defendant now challenges his 1993 guilty plea.

This court has no subject-matter jurisdiction if a case is moot. *Rio Grande Silvery Minnow v. Bureau of Reclamation*, 601 F.3d 1096, 1109 (10th Cir. 2010) (citing *Unified Sch. Dist. No. 259 v. Disability Rights Ctr. of Kan.*, 491 F.3d 1143, 1146–47 (10th Cir. 2007)). "The crucial question is whether granting a present determination of the issues offered will have some effect in the real world." *Id.* (citation and quotations marks omitted). Here, it appears defendant completely served his 1993 sentence and was released from prison. Any relief this court may grant with respect to his 1993 plea agreement would have no "real world" effect, as it would not alter defendant's present incarceration.

Further, even if this court had jurisdiction to hear defendant's motion, a defendant has one year in which to file a § 2255 motion. *See* 28 U.S.C. § 2255(f). Defendant is over twenty-two years late in challenging his 1993 guilty plea. Accordingly, defendant's motion is untimely.

For these reasons, the court denies defendant's motion.

IT IS THEREFORE ORDERED that defendant's "Motion to Withdraw/Vacate Guilty Plea" (Doc. 48) is denied.

Dated this 9th day of July, 2015, at Kansas City, Kansas.

s/ Carlos Murguia
CARLOS MURGUIA
United States District Judge